

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0539P

**Sales and Use Tax
Calendar Years 1994, 1995, 1996**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated December 30, 1997 protested the penalties assessed on an audit completed on November 13, 1997.

Taxpayer states it was unaware that any of the tax calculations were incorrect for this time period and they have been using prior audit results to determine tax status.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in failing to self assess use tax.

Taxpayer failed to self assess use tax on clearly taxable items such as office equipment, forms, supplies, tags, computer equipment, janitorial and building maintenance supplies, machine maintenance, storage equipment, employee comfort items, magazine, yard equipment, forklifts used in non-production areas, and utilities. A review of the audit indicates the taxpayer had a prior audit but failed to self assess for any item.

Taxpayer protests the penalty and states they have been using prior audit results to determine tax status and they handled the use tax to the best of their ability.

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The audit, however, indicates that no use tax accrual system was in place. The department finds the taxpayer was negligent in its failure to self assess and pay use tax and the taxpayer has not provided reasonable cause for its failure to do so.

FINDING

Taxpayer's protest is denied.